

ZB# 89-8

Rt.32 Shopping Center

35-1-102

#89-8-Route 32 Shopping Center - Use/Interpretation

Re: M.L.

Mar. 13, 1989.

Kathy to call w/ copy of
list for date of hearing
& legal notice.

Public Hearing

Apr. 24, 1989.

Notice sent to

Sentinel on 3/29/89 ✓

Use Variance
Denied
4/24/89.

Danhuai to

prepare final decision.

OK # 1005
\$50.00 to
Town Clerk

TOWN OF NEW WINDSOR		General Receipt		10487
555 Union Avenue New Windsor, N. Y. 12550		April 21		19 89
Received of		Route 32 associates		\$ 50 ⁰⁰ / ₁₀₀
		Fifty and ⁰⁰ / ₁₀₀		DOLLARS
For		3 BA. Application Fee 89-8		
DISTRIBUTION:				
FUND	CODE	AMOUNT		
Check # 50.00				
# 1005				
		By		Pauline J. Tammant EC
				Town Clerk
				Title

Williamson Law Book Co., Rochester, N. Y. 14609

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

-----X

In the Matter of the Application of

ROUTE 32 ASSOCIATES

DECISION DENYING
USE VARIANCE

#89-8.

-----X

WHEREAS, ROUTE 32 ASSOCIATES, a partnership having a place of business located at 147-39 175th Street, Jamaica, N. Y. 11434, by its partner, Jon Miller, has made application before the Zoning Board of Appeals for a use variance for the purposes of:

Construction of a restaurant and retail sales in an R-5 zone located on Windsor Highway, New Windsor, N. Y.; and

WHEREAS, a public hearing was held on the 24th day of April, 1989 at the Town Hall, 555 Union Avenue, New Windsor, New York; and

WHEREAS, Applicant was represented by Herbert L. Kartiganer, P. E. of Kartiganer Associates, P. C.; and

WHEREAS, the application was opposed by adjacent property owners;

WHEREAS, the Orange County Planning & Development Department recommended disapproval of the application and instead recommended that a rezoning might be appropriate; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter;

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant has applied to the ZBA for a use variance to allow a restaurant and retail sales in an R-5 zone.

3. The applicant failed to present any "dollars and cents" proof that the subject lands cannot yield a reasonable return if used only for purposes allowed in the R-5 zone.

4. The evidence presented by a representative of the adjacent property owners indicated that the proposed restaurant and retail sales use would, in fact, alter the essential character of the locality which presently is under development as a residential condominium.

5. The evidence presented by the applicant that this parcel is similar to others on the same side of NYS Route 32 and the recommendation by the Orange County Planning & Development Department that a rezoning might be appropriate, both indicate that the plight of the applicant is not unique, but also affect other similarly situated parcels which are deeper than the 200 ft. depth of the C zone along NYS Route 32.

6. The evidence presented indicates that the applicant, or its predecessor(s) in title, in 1986 caused a self-created hardship at the time the subject lands were subdivided out of a larger parcel by creating a 400 ft. deep parcel which spanned the zoning district boundary and thereby created a parcel of under three acres in the R-5 zone.

WHEREAS, the Zoning Board of Appeals of the Town of Windsor makes the following conclusions of law in this matter:

1. The evidence failed to indicate that the land in question cannot yield a reasonable return if used only for purposes allowed in the R-5 zone.

2. The evidence shows that the application as presented will alter the essential character of the locality which is devoted to R-5 uses.

3. The evidence indicates that the plight of the applicant is not due to unique circumstances, but instead results from general conditions in the neighborhood.

4. The evidence indicates that the hardship is self-created.

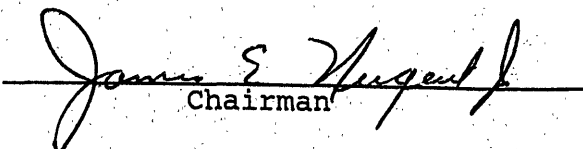
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY a use variance to the applicant.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and the applicant.

Dated: May 22, 1989.


Chairman



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK

March 28, 1989

Route 32 Associates
147-39 175th Street
Jamaica, New York 11434

Re: Variance List (35-1-102) Route 32 Associates

Dear Sir:

According to our records, the attached list of property owners are within five hundred (500) feet of the above mentioned property.

The charge for this service is \$65.00, minus your deposit of \$25.00. Please remit same to the Town Clerk, Town of New Windsor, NY.

Sincerely,

Leslie Cook

LESLIE COOK
Acting Assessor

LC/cp
Encl.

✓Friedman, Alfred
10th Floor, 5 E. 37th St.
New York, NY 10016

✓Guerriero, Aniello & Maria
306 Windsor Highway
New Windsor, NY 12550

✓✓Antonio, Henrique, &
Hawley, Terence G. &
DeMarchis, Val
310 Windsor Highway
New Windsor, NY 12550

✓Roadway Express Inc.
1077 Gorge Blvd.
Akron, Ohio 44309

~~Antonio, Henrique &
Hawley, Terence G. &
DeMarchis, Val
310 Windsor Highway
New Windsor, NY 12550~~

✓Brauvin High Yield Fund LP
c/o Brauvin Inc.
Suite 1020
333 W. Wacker Drive
Chicago, IL 60606

✓Deyo, Jesse Donald & Margaret
22 Willis Ave.
Cornwall, NY 12518

✓Vails Gate Elementary School
98 Grand St.
Newburgh, NY 12550

✓Exeter Building Corp.
4601 Delafield Avenue
Bronx, NY 10471

✓Pavignano, Robert
Ridge Terrace
Central Valley, NY 10917

✓Masloski, Joseph & Genevieve
24 Lannis Ave.
New Windsor, NY 12550

✓Trizinsky, Edward J. & Loretta
309 Windsor Highway
New Windsor, NY 12550

- ✓ Cohen, Michael P. & Eileen L.
PO Box 458
Vails Gate, NY 12584
- ✓ Guillotin, Jean & Marie Louise
30 Continental Drive
New Windsor, NY 12550
- ✓ Harris, Joseph M. & Lillian D.
32 Continental Drive
New Windsor, NY 12550
- ✓ Cimorelli, Michael J. & Roberta J.
34 Continental Drive
New Windsor, NY 12550
- ✓ Fotis, Peter T. & Ellen R.
36 Continental Drive
New Windsor, NY 12550
- ✓ McKay, Robert A. & Amelia D.
38 Continental Drive
New Windsor, NY 12550
- ✓ Garcia, Javier, R. & Norma C.
40 Continental Drive
New Windsor, NY 12550
- ✓ Lauterbach, Charles H. & Edna A.
42 Continental Drive
New Windsor, NY 12550
- ✓ Muise, Raymond J. & Pauline L.
44 Continental Drive
New Windsor, NY 12550
- ✓ Kroun, Renee
46 Continental Drive
New Windsor, NY 12550
- ✓ Lu Chien-Min & Yao-Ming
48 Continental Drive
New Windsor, NY 12550
- ✓ Stivala, George J. & Viola
Box 185
Vails Gate, NY 12584
- ✓ Kaduk, Eleanor K.
c/o Northern Homes
14 Route 17K
Newburgh, NY 12550

- ✓ Harris, Benjamin &
Wennet, Etta
PO Box 780
Cornwall, NY 12518
- ✓ Rottmeier Dev. Co. Inc.
c/o Newburgh Pork Store
327-B Windsor Highway
New Windsor NY 12550
- ✓ Headlee, Jan A.
5 Rock Cut Road
Newburgh, NY 12550
- ✓ Stinson's Tropical World Ltd.
3 Brooker Drive
Newburgh, NY 12550
- ✓ William Horowitz Corp.
3800 South Ocean Drive #1720
Hollywood, Florida 33019
- ✓ Catanzaro, Anna C. & Charles
26 Susan Drive
Newburgh, NY 12550
- ✓ Schatz, Aloysius J.
RD 2, Box 97
Route 94
New Windsor, NY 12550
- ✓ Milne, Alexander M. & Patricia M.
27 Continental Drive
New Windsor, NY 12550
- ✓ Kucyk, John & Frances T.
41 Continental Manor
New Windsor, NY 12550
- ✓ Jacobson, Howard & Hilda
Box 436
Vails Gate, NY 12584
- ✓ Antompietri, Rudolph & Sonia M.
120-31 DeKruit Place
Bronx, NY 10475
- ✓ Lang, Frank G.
35 Continental Drive
New Windsor, NY 12550
- ✓ Donovan, Michael P.
33 Continental Drive
New Windsor, NY 12550

✓ Kay, David & Dianne Shannon
31 Continental Drive
New Windsor, NY 12550

✓ Smith, Edward & Lenore
29 Continental Drive
New Windsor, NY 12550

✓ Lipovsky, Jerome
85 Congers Road
New City, NY 10956

✓ Mylonas, Dimitrios & Pope
c/o New Windsor Coach Diner
351 Windsor Highway
New Windsor, NY 12550

**K4 KARTIGANER
ASSOCIATES, P.C.
CONSULTING ENGINEERS**

555 BLOOMING GROVE TURNPIKE • NEWBURGH, NY 12550-7896 • (914) 562 - 4391

21 February 1989

Town of New Windsor
Zoning Board of Appeals
555 Union Avenue
New Windsor, New York 12550

ATTENTION: CHAIRMAN

SUBJECT: ROUTE 32 SHOPPING CENTER
TOWN OF NEW WINDSOR
NWBK PROJECT NO. 88-42
KA JOB NO. 88015.00

APPLICATION FOR USE VARIANCE

Gentlemen:

Please find enclosed three (3) copies of the SUBJECT application, site plans, tax map showing adjacent properties, photos of existing premises and one (1) check in the amount of Fifty Dollars (\$50.00) payable to the Town of New Windsor. This submission constitutes our application for a use variance for the SUBJECT project. We request that the project be schedule on a ZBA work session as soon as possible.

Should you have any questions regarding this submission please do not hesitate to contact me at your earliest convenience.

Very truly yours,

KARTIGANER ASSOCIATES, P.C.

Katherine Ann Dewkett

Katherine A. Dewkett, P.E.
Project Engineer

KAD/snh

encl: a/s

cc w/encl: Jon Miller, Route 32 Associates
w/o: Mark Edsal, P.E., Town of New Windsor
Planning Board Engineer

4/24/89 - Public Hearing - #89-8 - Route 32 Assocs.

Name:

BILL FRIED

Seneca Smith

Address:

4601 DELAFIELD AVE BRONX N.Y. 10471

29 Continental Drive

(Note: The ZBA meets every 2nd and 4th Mon. of each month, except July and August.)

89-8

PROCEDURE FOR PUBLIC HEARING

In order to prepare for a public hearing before the Zoning Board of Appeals, the applicant must first prepare a public hearing notice, publication to appear in THE SENTINEL once at least ten (10) days prior to the public hearing date. When notice has been prepared, return it to the Zoning Board Secretary (Address below) so that she may transmit it to the newspaper in a timely manner. The cost of the publication is at the applicant's expense. The applicant, upon paying for the published notice, will receive an affidavit of publication. Three (3) copies of the application must also be completed and returned to the Secretary. NO PUBLIC HEARING DATE WILL BE SCHEDULED UNTIL ALL PAPERWORK IS COMPLETED AND RETURNED TO SECRETARY.

Registered or certified letters are to be sent to all property owners within a radius of 500 ft. from the subject property. This list may be obtained from the Town Assessor's office for a fee which is determined by the Town Assessor. Her office is located in the Town Hall. PLEASE ALLOW THE ASSESSOR'S OFFICE AT LEAST ONE WEEK TO PREPARE AND RETURN THE LIST. All registered or certified letters must have return receipts. All return receipts, copy of published notice, affidavit of publication from newspaper, copy of site plan with measurements, must be presented to the Secretary at the public hearing by the applicant. The list from the Assessor's Office, or copy thereof, must also be presented to the Secretary at the public hearing as part of the record. You may use the form Notice of Public Hearing as your letter of transmittal to all of the property owners within 500 ft. radius of the property in question. The letters must be postmarked at least ten (10) days previous to the public hearing.

Fees: A fee of \$50.00, payable to the TOWN OF NEW WINDSOR, must accompany all applications for commercial use. A fee of \$25.00 is required for residential applications. All fees are due at the time the applications are returned to the Secretary.

Please have your attorney determine whether Section 239 1 and m of the General Municipal Law is applicable, and if so, send a copy of your application with plans attached, to: Orange County Planning Dept., 124 Main Street, Goshen, New York 10924. The applicant must notify the Orange County Planning Dept., if applies, sufficiently in advance of the public hearing to permit that Board time to review the application and advise the ZBA.

RETURN ALL PAPERWORK PROMPTLY TO:

PATRICIA A. BARNHART, Secretary
New Windsor Zoning Board of Appeals
555 Union Avenue - Town Hall
New Windsor, N.Y. 12550 - 565-8550 (914)

Applicant's check list: (Return all to Secretary)

1. Three copies of application, site plans and maps.
2. Public Hearing notice (immediately)
3. Town Assessor's list.
4. Green cards (return receipts).
5. Fee for application.
6. Affidavit of publication from newspaper.

KA KARTIGANER
ASSOCIATES, P.C.
CONSULTING ENGINEERS

Rec'd
ZBA 4/13/89 (P10)

555 BLOOMING GROVE TURNPIKE • NEWBURGH, NY 12550-7896 • (914) 562 - 4391

11 April 1989

Town of New Windsor
Zoning Board of Appeals
555 Union Avenue
New Windsor, New York 12550

ATTENTION: JAMES NUGENT, CHAIRMAN

SUBJECT: ROUTE 32 SHOPPING CENTER
TOWN OF NEW WINDSOR
NWPB PROJECT NO. 88-42
KA JOB NO. 88015.00

APPLICATION USE VARIANCE

Dear Mr. Nugent:

Please find enclosed seven (7) copies of the Zoning Report for the SUBJECT project to be added to the SUBJECT application. The Zoning Report outlines much of the information requested by the Zoning Board of Appeals at the 13 March 1989 work session. The report is being sent prior to the scheduled Public Hearing on 24 April 1989 for your review.

Should you have any questions regarding this submission, please do not hesitate to contact me at your earliest convenience.

Very truly yours,

KARTIGANER ASSOCIATES, P.C.

Katherine Ann Dewkett

Katherine A. Dewkett, P.E.
Project Engineer

Encl. a/s
KAD:lm

cc: w/encl: Jon Miller, Route 32 Associates



Louis Helmbach
County Executive

cc: Kathy Duskett
Kantigianer Assocs.
FAX 2-4395

Department of Planning
& Development

124 Main Street
Goshen, New York 10924
(914) 294-5151

Peter Garrison, Commissioner
Richard S. DeTurk, Deputy Commissioner

ORANGE COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT
239 L, M or N Report

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and Countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by Town of New Windsor ZBA

D P & D Reference No. NWT 7-89M

County I.D. No. 351 1 1102

Applicant ROUTE 32 ASSOCIATES

Proposed Action: USE VARIANCE TO PERMIT SHOPPING CENTER

State, County, Inter-Municipal Basis for 239 Review FRONTAGE/ACCESS ALPS 32

Comments:

RECOMMEND AGAINST CIRCUMVENTING THE
LEGISLATIVE PROCESS. URGE THE ZBA (AND APPLICANT)
TO ADVISE THE TOWN BOARD OF THE NEED TO
RE-EXAMINE AND POSSIBLY AMEND THE ZONING
ORDINANCE.

Related Reviews and Permits

County Action: Local Determination _____ Disapproved ☒ Approved _____

Approved subject to the following modifications and/or conditions: _____

Date

Commissioner

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals
of the TOWN OF NEW WINDSOR, New York will hold a
Public Hearing pursuant to Section 48-34A of the
Zoning Local Law on the following proposition:

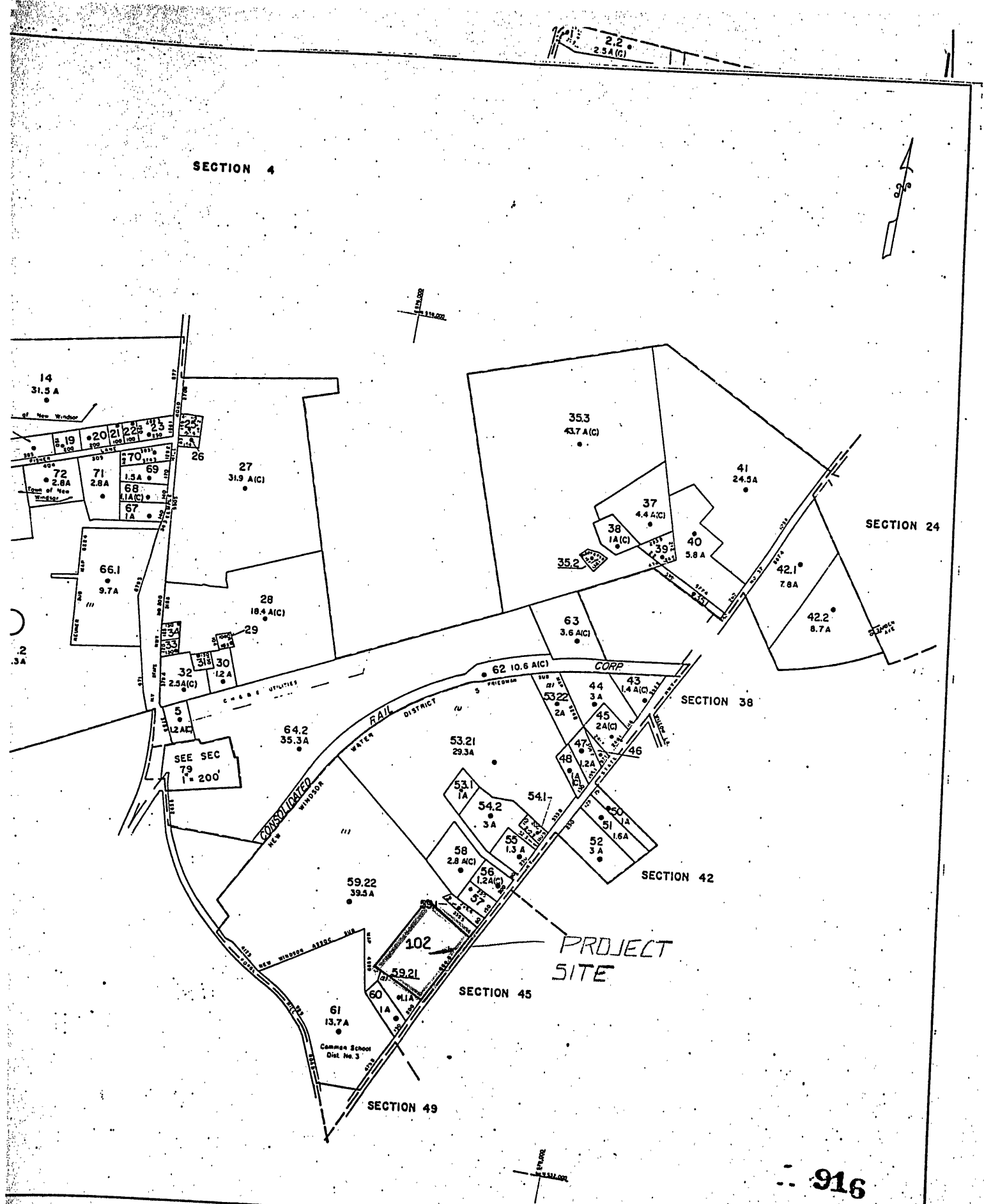
Appeal No. 8
Request of Rt. 32 Associates
for a VARIANCE of
the regulations of the Zoning Local Law to
permit construction of commercial shopping center
on split zoned parcel C/R-5.

being a VARIANCE of
Section 48-9, Table of Use/Bulk Regulations
for property situated as follows:

Along Route 32 on the west side of the Highway
between Ponderosa to the South and entrance to
Washington Green on the North. Sec. 35-Blk 1- Lot 102.

SAID HEARING will take place on the 24th day of
April, 1989, at the New Windsor Town Hall,
555 Union Avenue, New Windsor, N. Y. beginning at
7:30 o'clock P. M.

James Nugent
Chairman



PLAN BLOCK NO.	2
AN LOT NO.	7
N.Y. STATE MAP NO.	7
12 NOV. 1965	

ORANGE COUNTY-NEW YORK

Photo No. 8-497,498

Date of Photo: 3-1-65

Date of Map: 9-24-67

TAX MAP SEC 35

TOWN OF NEW WINDSOR

916



555 BLOOMING GROVE TURNPIKE • NEWBURGH, NY 12550-7896 • (914) 562 - 4391

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

ZONING REPORT

WINDSOR HIGHWAY ROUTE 32 PARCEL 35-1-102

5.70± ACRES

C/R-5. (COMMERCIAL/MULTIFAMILY RESIDENTIAL)

ZONE



APPLICANT:

ROUTE 32 ASSOCIATES
147-39 175 STREET
JAMAICA, NEW YORK 11434
JONATHAN MILLER, PRINCIPAL

PREPARED BY:

KARTIGANER ASSOCIATES, P.C.
CONSULTING ENGINEERS
HERBERT L. KARTIGANER, P.E., L.S.
KATHERINE A. DEWKETT, P.E.

DATE: 24 MARCH 1989
REVISION: 0
KA JOB NO.: 88015.00

ZONING REPORT - APPLICATION FOR A VARIANCE

A. REFERENCES:

1. Application for a Variance or Special Permit, 21 February 1989 from Route 32 Associates to New Windsor Zoning Board of Appeals (w/attachments)
2. New Windsor Zoning Board of Appeals Work Session, 13 March 1989
3. New Windsor Zoning Map, 1986 (Attachment to Reference 1)
4. New Windsor Zoning Map, 1965, (Attachment A)
5. Washington Green Plot Plan, (Attachment B)
6. New Windsor Tax Map Section 35 (Attachment to Reference 1)
7. Site Plan Route 32 Associates, Rev. 3, 27 December 1988 (Attachment to Reference 1)
8. Comprehensive Development Plan, Town of New Windsor, adopted 6 December 1963.
9. Zoning Code, Chapter 48, Town of New Windsor, 1986
10. R5 Multiple Family Residential Zone Bulk Table, 1986 (Attachment C)

B. PURPOSE OF REPORT:

During the New Windsor Zoning Board of Appeals Work Session, 13 March 1989 (Reference 2), the applicant requested the advice and guidance of the Board relating to the application for a variance (Reference 1). This report is a presentation of such statements of fact and information suggested for the entertainment of such application and scheduling of a Public Hearing on the matter.

C. ZONE AND PARCEL GEOMETRY:

1. The subject parcel is located on the west side of Windsor Highway (NYS Route 32), fronting 600'± on said highway and maintaining a depth of 400'± westerly; the parcel contains 5.70 acres±. It is

adjoined on the south by Ponderosa Systems Inc. (depth 350'±) and on the north by Temple Hill Motel Corp. (335'± deep). The rear or westerly side of the property is bounded by Exeter Building Corp., said property presently under construction with multifamily residences known as Washington Green. See Site Plan, Reference 7 and Plot Plan, Reference 5.

2. The Zoning Map of 1986 (Reference 3) indicates the subject parcel is split into two distinct zones. The zone fronting on Windsor Highway to a depth of 250' is zoned Commercial C; the balance of the parcel is zoned R-5 Multiple Family Residential.

3. The measurement of boundary depth was made in accordance with paragraph 48-6F "In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon (Reference 9).". The scale used was the scale on the official New Windsor Zoning Map, 1986 (Reference 3), indicating the depth to scale on the east side of Route 32 200'; and the depth to scale on the west side of Route 32 250'. It is noted the width of the zone demarcation line to scale is 100' and therefore if the measurements were taken to the center of said line in preclusion of favoring one zone over another. The 200' depth scale is verified by the zone dimension of 200' shown on the Zoning Map of 1965 (Reference 4).

4. The following Table I indicates the allocations of acreage and percentages of total parcel. The Deeded Parcel shown on the Table by prefix A indicates the parcel deeded to and under the present

ownership of the applicant. Such parcel is shown on the Site Plan (Reference 7). The Effective Commercial Planning Area to Edge Pavement denoted by prefix B is the planning area allocated to the commercial zone measured to the westerly edge of the existing pavement of Route 32. As seen on the Site Plan, this area of .52 acres between the right-of-way line and the pavement line is an integral part of the commercial parcel development and was included in the Table display at the request of the Zoning Board at the 13 March 1987 scope session. Similarly, the 200' demarcation setback and calculations were shown at the request of the Zoning Board for referencing; shown as lines 1A and 1B on the Table. Lines 2A and 2B indicate the allocations in accordance with the Zoning Ordinance, showing a minimum of 62% of the parcel in the Commercial C zone. Lines 3A and 3B indicate the allocations in accordance with the Zoning Ordinance, paragraph 48-6D, allowing an extension of the commercial (less restricted) zone of 30', thereby extending the Commercial zone to 70% of the total parcel.

TABLE I

AREA IN ACRES & PERCENTAGES OF TOTAL PARCEL

LINEAR FEET DISTANCES FROM R.O.W.	TOTAL ACRES	ACRES		COMMERCIAL ZONE C		MULTI FAMILY ZONE RESIDENTIAL R-5	
		C	R-5	%	SQUARE FT	%	SQUARE FT
A 400' DEEDED PARCEL	5.70						
B 400' EFFECTIVE COMMERCIAL PLANNING AREA TO EDGE PVMT	6.22						
1A 200' DEMARCATION DEEDED	5.70	2.83	2.87	50	123,410	50	124,882
1B PLANNING AREA	6.22	3.35	2.87	54	146,172	46	124,882
2A 250' ZONE DEMARCATION DEEDED	5.70	3.56	2.14	62	155,040	38	93,252
2B PLANNING AREA	6.22	4.08	2.14	66	177,802	34	93,252
3A 280' SPLIT ZONE ALLOWANCE (250+30) DEEDED	5.70	3.99	1.71	70	173,987	30	74,305
3B PLANNING AREA	6.22	4.51	1.71	73	196,749	27	74,305

D. USE VARIANCE:

The applicant requests a 5.70± acre parcel presently split zoned in C and R5; be planned and developed as a single contiguous C zone in order to allow the development of the parcel currently under single ownership into a commercial (local business) shopping center. The design of the parcel will meet or exceed the requirements of the Commercial C zone of the Town of New Windsor and be subject to the Site Plan review, processing and approvals by the Planning Board and the other applicable agencies of the municipality.

1. Based on the physical condition and geometry of the split parcel not due to any prior or present owner's acts an unnecessary hardship would be created in depriving the applicant reasonable use of the land. Without a variance, the rear portion of the property would be relegated to a R-5 Multifamily Residential use. The Bulk Regulations (Reference 10) indicates a minimum of five acres required for such use and front yard and rear yard setbacks totaling 150'; it is noted from Table I that the remaining acreage would be 2.14 acres in the R-5 zone, and the entire depth of parcel would be 150'.

2. For the aforesaid reasons, the granting of the variance is necessary for the reasonable use of the land and the granting of said variance by the Board is the minimum variance that would accomplish the purpose of reasonable use and the criteria established by the Comprehensive Development of the Town of New Windsor (Reference 8) relating to: "Local Business Areas" designed to meet the immediate needs of residents within a relatively small service area. These would probably consist of a small supermarket and several convenience

type retail or service establishments. At least one such area should be provided in each planning area.

3. In an effort to alleviate the hardship, the applicant had caused to be executed and reviewed a Site Plan for development of the parcel that exceeds in every way the minimum requirements of the Commercial Zone (Reference 7). Such plan, as an example, indicates the closest building setback to the adjoining property currently under development of 64' versus a minimum requirement of 30'; in addition, said setback is buffered by a minimum 15' landscaped strip along the entire rear of the property. The total setback from the nearest building as planned is 104', (See Reference 7).

4. The granting of the variance would allow a project that is necessary, desirable, and in harmony with the general purpose and intent of the local law (See Reference 8). The project will provide a facility that will provide an immediate and necessary service to the multifamily residential character of the properties to the rear presently under construction. The project will not be injurious to the neighborhood nor change the character thereof except for the better, considering that the immediate neighbors to the north and south are presently commercially occupied properties along Route 32. Close observation of the Site Plan will indicate a single ingress and egress point through a divided drive to the property. It is observed as a betterment versus the properties on the east side of Route 32 indicating no less than 9 points of ingress and egress to the strip commercial development thereon.

E. CONCLUSION:

The application and statements of facts supports the requests for a variance and meets or exceeds the criteria of the local law in progressing the present development of the property to its highest and best use.

Respectfully submitted,

Herbert L. Kartiganer

Herbert L. Kartiganer, P.E., L.S.
Project Principal in Charge

Katherine Ann Dewkett

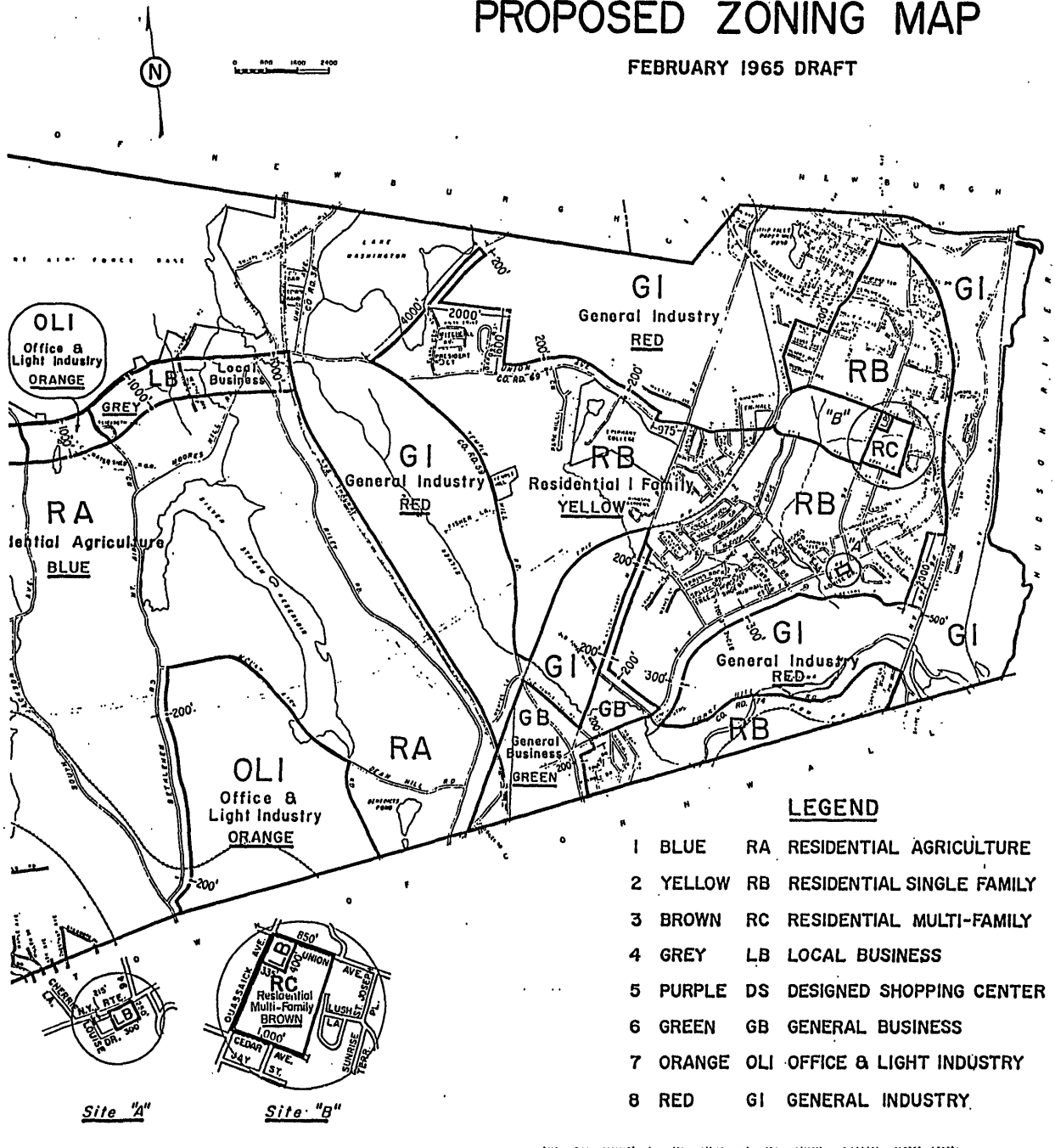
Katherine A. Dewkett, P.E.
Project Engineer

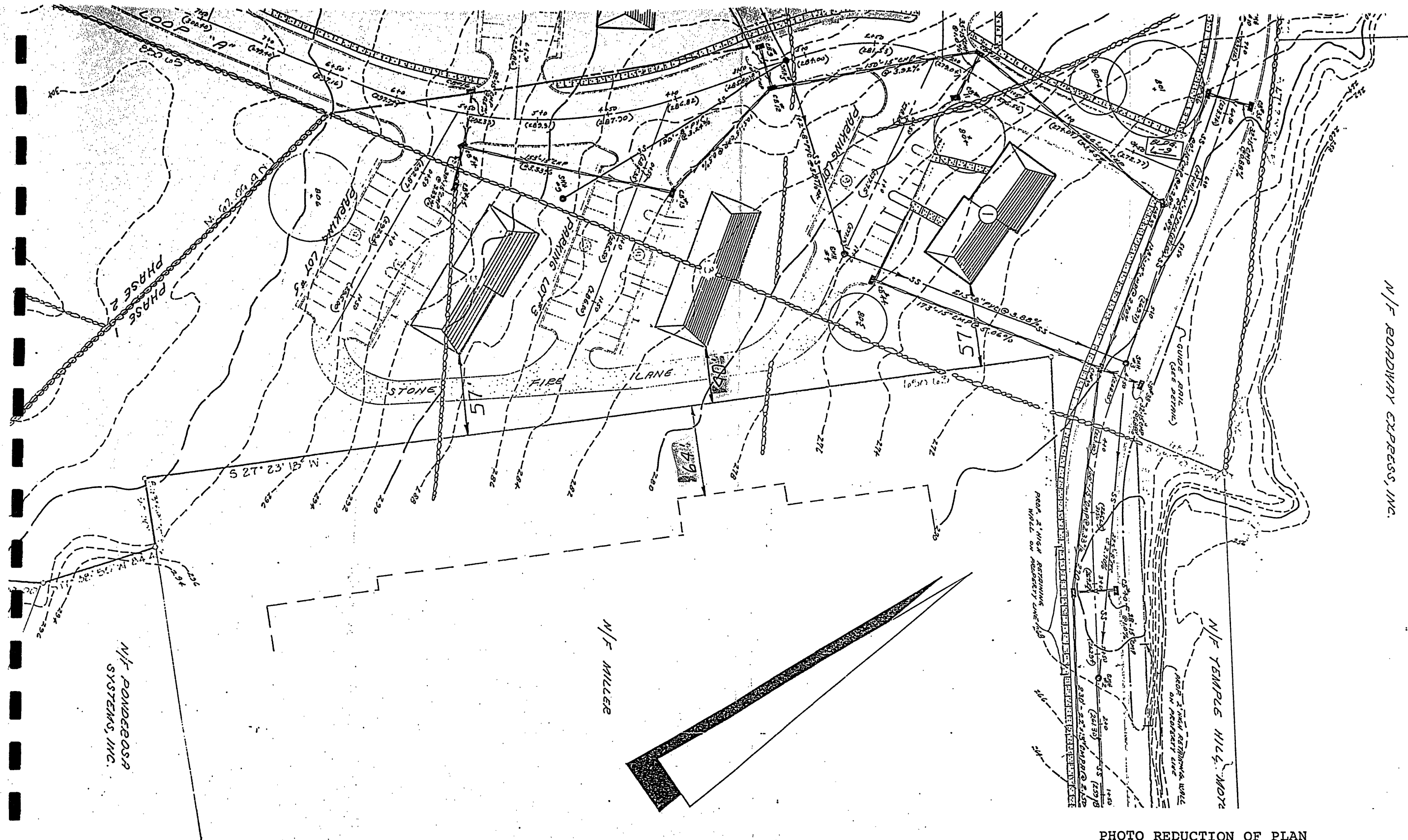
TOWN OF NEW WINDSOR

orange county, new york

PROPOSED ZONING MAP

FEBRUARY 1965 DRAFT





N/F ROADWAY EXPRESS, INC.

PHOTO REDUCTION OF PLAN
PREPARED FOR
WASHINGTON GREEN
PREPARED BY
WILLIAM YOUNGBLOOD ASSOCIATES

10 OCTOBER 1986 REV 9: 4 JANUARY 1989
Attachment B

**Table of Use/Bulk Regulations
Multiple-Family Residential (R-5)¹
Town of New Windsor**

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Uses Permitted by Right	Uses by Special Permit of the Planning Board or Town Board	Minimum Lot Area (square feet unless otherwise designated)	Minimum Lot Width (feet)	Required Front Yard Depth (feet)	Required Side Yard/Total Both Yards (feet)	Required Rear Yard Depth (feet)	Required Street Frontage (feet)	Maximum Building Height (feet)	Floor Area Ratio	Minimum Livable Floor Area (square feet)	Development Coverage (percent)	Permitted Accessory Uses	Permitted Accessory Signs	Minimum Off-Street Parking (number of spaces)	Minimum Off-Street Loading Berths (number of berths)
<p>1. The following commercial agriculture operations and accessory uses thereto, provided that there shall be no storage of manure or other odor- or dust-producing substance or use, except spraying and dusting to protect vegetation within 50 feet of any lot line:</p> <p>(a) Raising of field and garden crops, vineyard and orchard farming and the maintenance of nurseries</p> <p>2. Buildings, structures and uses owned and operated by the Town of New Windsor²</p> <p>3. Public parks and playgrounds²</p> <p>4. Outdoor recreational facilities, including golf courses, ice skating rinks, swimming pools, parks, playfields and ski areas, subject to § 48-21A²</p>		5 acres	200	100	50/100	50	50	50	N/A	N/A	10	<p>1. Accessory parking</p> <p>2. Accessory loading</p> <p>3. Accessory signs</p> <p>4. Accessory to commercial agriculture operations, barns, silos and produce storage and packing warehouses, provided that such accessory buildings shall conform to the yard requirements for principal buildings</p> <p>5. Customary home occupations</p> <p>6. Garden houses, tool-houses, playhouses and garages, subject to § 48-14</p> <p>7. Swimming pools, subject to § 48-21G</p> <p>8. Private garages accessory to the principal use of the lot</p> <p>9. Keeping domestic animals as follows; not more than a total of 3 cats or dogs over 1 year old, not more than 2 horses over 6 months old, not more than 10 fowl and not more than 2 of any other species of domestic animals; excluding, however, all pigs and cattle. No domestic animal, except dogs and cats, shall be maintained within 75 feet of any plot line</p>	<p>1. Accessory to permitted residences: 1 non-illuminated nameplate or professional sign with an area of not to exceed 2 square feet</p> <p>2. For any multiple-residence development: 1 indirectly illuminated sign not to exceed 20 square feet in area for each face, maximum 2 faces, at least 25 feet from the street line and not to exceed a height of 5 feet above ground level, as measured from the top of the sign; and not more than 2 non-illuminated directional signs, each not to exceed 2 square feet in sign area, provided that such signs are setback at least 10 feet from the street line</p> <p>3. For any nonresidential establishment permitted, 1 indirectly illuminated sign not to exceed 10 square feet in area, at least 25 feet from the street line; and not more than 2 non-illuminated directional signs, each not to exceed 2 square feet in sign area provided that such signs are set back at least 10 feet from the street line</p> <p>4. For any structure for sale or rent: 1 temporary nonilluminated "for sale" or "for rent" sign not to exceed 6 square feet in area located at least 15 feet from the street line. Such temporary use shall cease within 30 days after sale or rental is con-</p>	<p>1. Single-family dwellings: 2 per dwelling with full turnaround area</p> <p>2. Outdoor recreation areas: 1 for each 5 persons for which designed, but not less than 4 per acre</p> <p>3. Boat docks, marinas, clubhouses: 1 for each 3 persons for which seating is provided</p> <p>4. Boat ramps: 1 for each member</p> <p>5. Golf course and clubs: 10 for each tee</p> <p>6. Skiing areas: 3 for every 10 persons of practical lift capacity</p> <p>7. Annual membership clubs: 1 for each 100 square feet of floor area occupied by all principal or accessory structures, except those used for parking purposes, or 1 for each 15 members</p> <p>8. Buildings or open stands for the display and sale of agricultural products: 1 for 5 feet of front wall of such stand or 300 square feet of floor space, whichever is greater</p> <p>9. Cemeteries: off-street standing area to accommodate 50 automobiles</p> <p>10. Railroad, public utility, radio and television transmission antennas and right-of-way: 1 for each on-site employee</p>	<p>1. For any uses permitted by right or uses by special permit: 1 for any building or structure exceeding 10,000 square feet</p>
5. Places of worship, including parish houses ²		3 acres	125	45	20/40	50	70	35	N/A		25				
6. Public elementary and high schools operated by the people of the State of New York		15 acres	500	100	100/200	100	500	40	N/A	N/A	20				
7. One-family detached dwellings, not to exceed 1 dwelling on each lot, without central water and without central	1. Residence care facilities, subject to § 48-23.2, without central sewer and central water ³	43,560	125	45	20/40	50	70	35	N/A	1,000	10	10. Home professional office or studio of architect, artist, chiropractor, dentist, engineer, insurance broker, lawyer, musician, optometrist,			

OFFICE OF THE PLANNING BOARD
TOWN OF NEW WINDSOR
ORANGE COUNTY, N.Y.

Prelim.

3/13/89

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION


P/B
File No. 88-42

Date 3 FEB 1989

To: ROUTE 32 ASSOCIATES
147-39 175TH STREET
JAMAICA N.Y. 11434

PLEASE TAKE NOTICE that your application dated 24 JUNE 1988
for (~~Subdivision~~ - Site Plan)
located at ROUTE 32 2000 FT SOUTH OF WILLOW
LANE.

is returned herewith and disapproved for the following reasons.
USE VARIANCE REQUIRED FOR RESTAURANT
AND RETAIL SALES USE IN R-5 ZONE


for Planning Board Chairman

Requirements

Proposed or
Available

Variance
Request

Min. Lot Area _____
Min. Lot Width _____
Req'd Front Yd. _____
Req'd. Side Yd. _____
Req'd. Rear Yd. _____
Req'd. Street
Frontage* _____
Max. Bldg. Hgt. _____
Min. Floor Area* _____
Dev. Coverage* _____

*NO BULK VARIANCES
REQUESTED BY
APPLICANT*

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

P/B
File No. 88-42

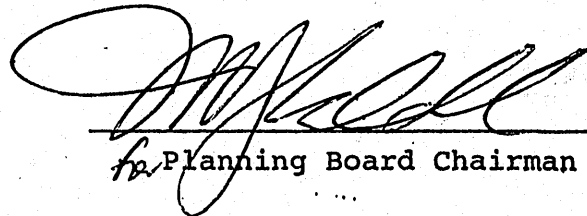
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Req'd. Street
Frontage* _____
Max. Bldg. Hgt. _____
Min. Floor Area* _____
Dev. Coverage* _____ %
Floor Area Ratio** _____

NO BULK VARIANCES
REQUESTED BY
APPLICANT

* Residential Districts only

** Non-residential Districts only

CC: MARK EDFAUL PE PLNG BD ENGR
MIKE BABLOCK BUDG INSP
~~ZONING BD OF APPEALS~~
P-B FILE 88-42

ROUTE 32 ASSOCIATES

Kathleen Dewkett came before the Board representing this proposal.

Ms. Dewkett: Last time we were here for the Route 32 Shopping Center. This is a project that we are requesting conceptual approval from the Planning Board and then a referral to the Zoning Board of Appeals because we do need a variance for the rear of the parcel.

Mr. VanLeeuwen: I make a motion that we approve the Route 32 Associates site plan.

Mr. McCarville: What do you need the variance on.

Ms. Dewkett: Half the parcel is in design shopping and the other half is in R5.

Mr. McCarville: I will second that motion.

ROLL CALL:

Mr. McCarville	No
Mr. VanLeeuwen	No
Mr. Pagano	No
Mr. Soukup	No
Mr. Schiefer	No

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE OR SPECIAL PERMIT

Date: 21 February 1989

I. Applicant Information:

- (a) Route 32 Associates, 147-39 175th Street, Jamaica, NY 11434 (718) 995-4577
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) Solamon & Gruber, 97 Powerhouse Rd., Roslyn Heights, NY 11577 (516) 625-1700
(Name, address and phone of attorney) Contact Alan Solamon, Esq.
- (d) _____
(Name, address and phone of broker)

II. Application type:

- ☒ Use Variance ☐ Sign Variance
- ☐ Area Variance ☒ Interpretation

III. Property Information:

- (a) C / R-5 Windsor Highway (Rt 32) New Windsor 35-1-102 5.70 AC
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R-5, PL, R-4, C
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes
- (d) When was property purchased by present owner? Nov. 21, 1986
- (e) Has property been subdivided previously? Yes When? *see attached
- (f) Has property been subject of variance or special permit sheet previously? No When? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: None

IV. Use Variance:

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A, to allow:
(Describe proposal) Request 5.70 acre parcel presently split zoned in C and R-5; be planned and developed as a single contiguous C zone in order to allow the development of this parcel currently under single ownership into a commercial shopping center (approximately 50,000 SF - retail space) and (approximately 6,400 SF - food service).

- (b) The legal standard for a "Use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

*see attached sheet

V. Area variance:

- (a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

Requirements	Proposed or Available	Variance Request
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.	/	/
Reqd. Rear Yd.		
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage* %	%	%
Floor Area Ratio**		

* Residential Districts only

** Non-residential districts only

- (b) The legal standard for an "AREA" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also, set forth any efforts you have made to alleviate the difficulty other than this application.

VI. Sign Variance:

- (a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	Requirements	Proposed or Available	Variance Request
Sign 1			
Sign 2			
Sign 3			
Sign 4			
Sign 5			
Total	sq.ft.	sq.ft.	sq.ft.

- (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or oversize signs.

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation:

- (a) Interpretation requested of New Windsor Zoning Local Law, Section 48-6.E, Table of _____ Regs., Col.

_____. Published Zoning Map, Rev. 1986

- (b) Describe in detail the proposal before the Board:

The district boundary follows the Lot lines of Sec 35 - Blk-1
Lots 45,46,47,48,55,56 & 57 which is approximately 250 feet
from the State ROW along Rt. 32. Therefore, the district
boundary of Sec 35 - Blk-1 Lot 102 is located 250' from the
State ROW.

VIII. Additional comments:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The neighborhood standard is commercial sites and newly constructed
multifamily residences. A single family residence would not
blend with the existing neighborhood standards. The rear of the
parcel bordering the multifamily residences would be designed with
a 15' landscaped and fenced buffer as shown on the attached plan.
A commercial shopping center would be beneficial to the neighborhood
serving the existing and newly constructed multifamily residences.

IX. Attachments required:


- _____ Copy of letter of referral from Bldg./Zoning Inspector.
XX Copy of tax map showing adjacent properties.
_____ Copy of contract of sale, lease or franchise agreement.
XX Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot.
_____ Copy(ies) of sign(s) with dimensions.
XX Check in the amount of \$ 50.00 payable to TOWN OF NEW WINDSOR.
XX Photos of existing premises which show all present signs and landscaping.

X. AFFIDAVIT

Date 02/09/87

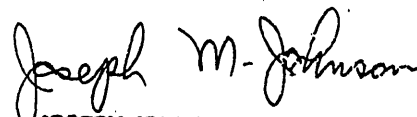
STATE OF NEW YORK)
COUNTY OF ^{N/A SS 44} ~~ORANGE~~) SS.:

The undersigned Applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his knowledge or to the best of his information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance or permit granted if the conditions or situation presented herein are materially changed.


(Applicant)

Sworn to before me this

09 day of February, 1989.


JOSEPH JOHNSON
Notary Public, State of New York
No. 14-4518107
Qualified in Nassau County
Commission Expires June 30, 1990

XI. ZBA Action:

- (a) Public Hearing date _____
- (b) Variance is _____
Special Permit is _____
- (c) Conditions and safeguards: _____

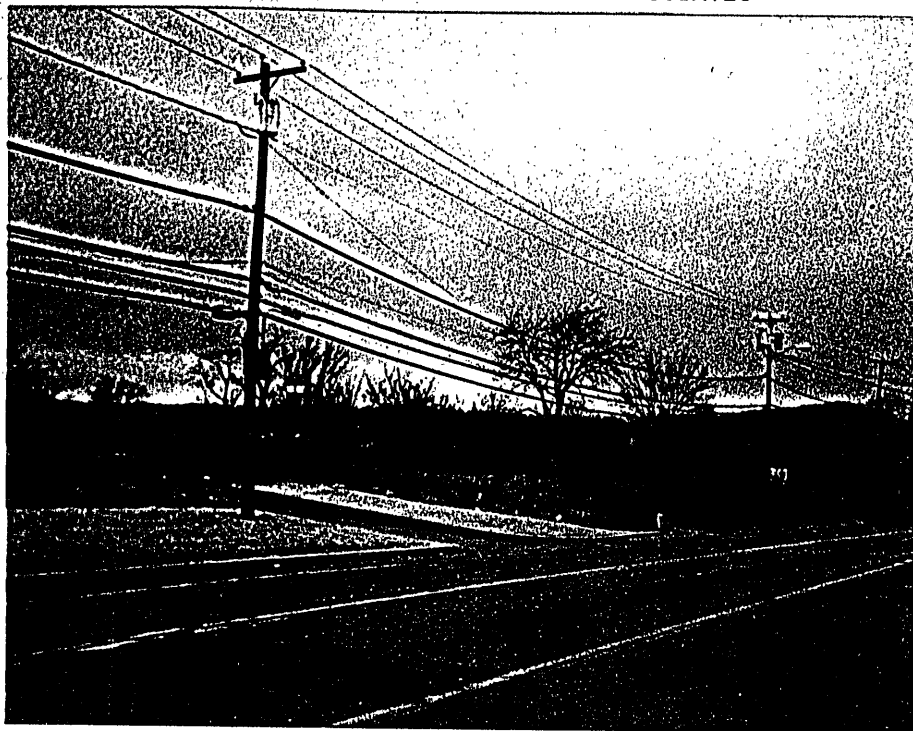
A FORMAL DECISION WILL FOLLOW
WHICH WILL BE ADOPTED BY
RESOLUTION OF ZONING BOARD OF APPEALS.

ATTACHED SHEET 5

III.e. The original parcel of land, Sec 35, Blk 1, Lot 59.22 was subdivided into two parcels in 1986 according to Map #7715, filed 7/14/86.

IV.b. The current zoning of the parcel (subject to requested interpretation) divides a 120' x 650' strip into the R-5 zoning district. (See VII.(b) for explanation of requested zoning boundary interpretation). Section 48-6.D. allows an additional 30' strip to be designed according to the less restricted zoning regulations. This leaves the 120' x 650' strip as R-5 for which a use variance is requested. The exceptionally narrow strip would deprive the applicant of reasonable use of the land by only allowing one single family residence on the 1.8± acre strip, according to the USE/BULK regulations for the R-5 district. The strip would be impossible to develop according to town and neighborhood standards which call for commercial development and multifamily housing. The requested variance is the minimum act which would uphold the general purpose and intent of the law and maintain a contiguously zoned neighborhood.

ROUTE 32 ASSOCIATES



Project Site

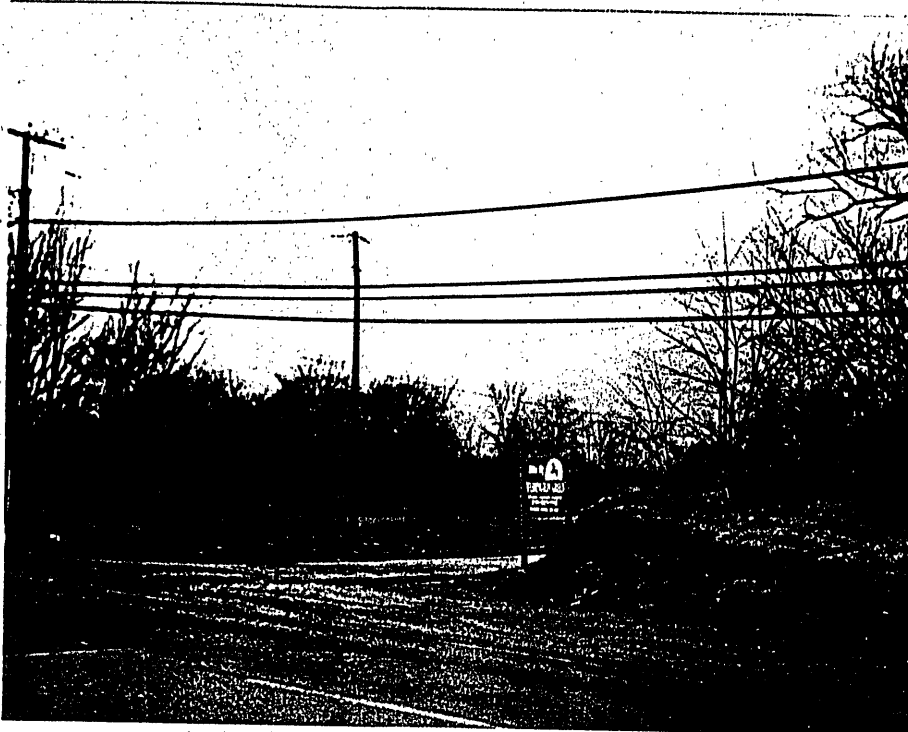
View from Rt 32,
Looking North at Site.

Project Site

View from Rt. 32,
Looking West at Site.

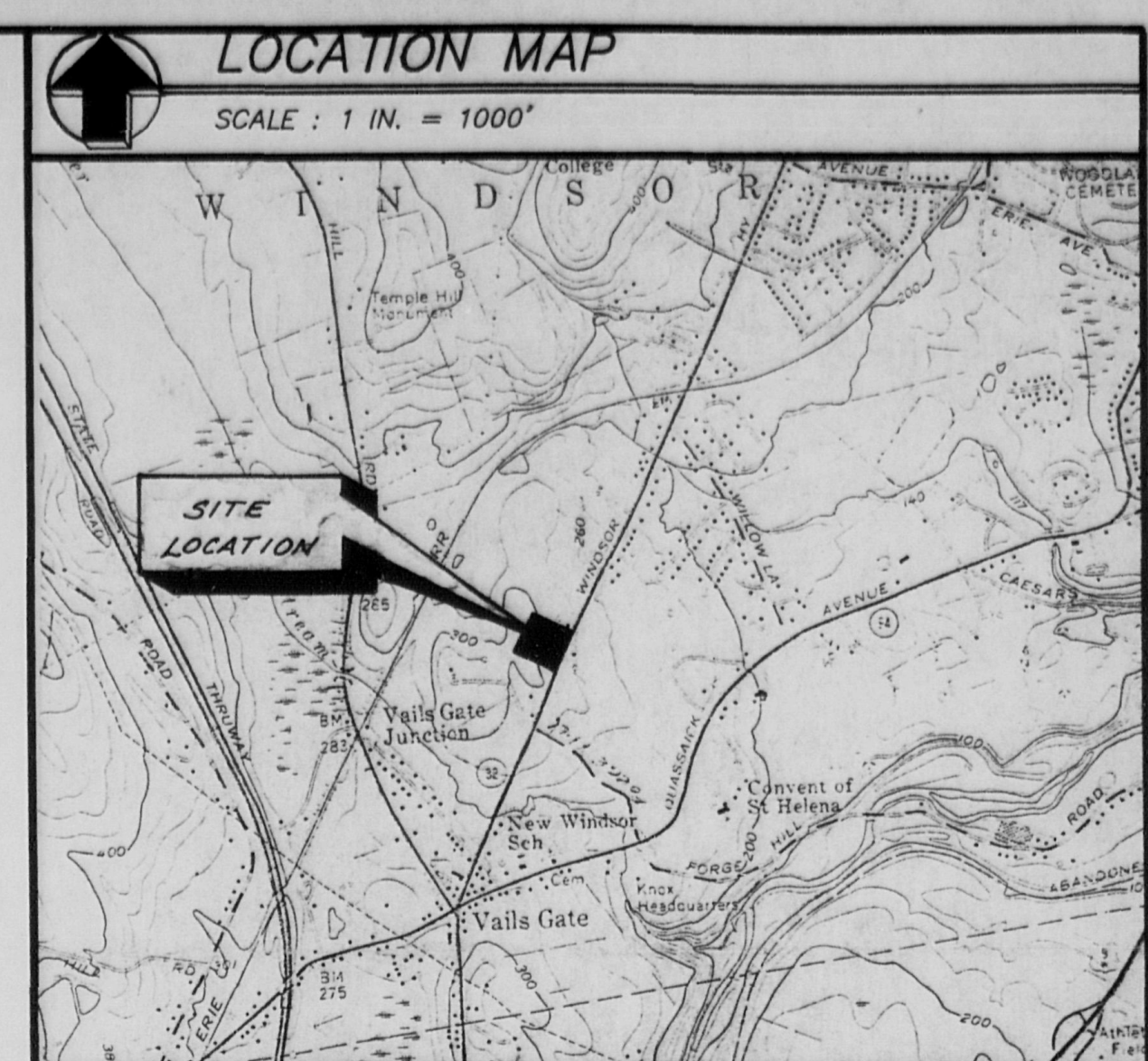
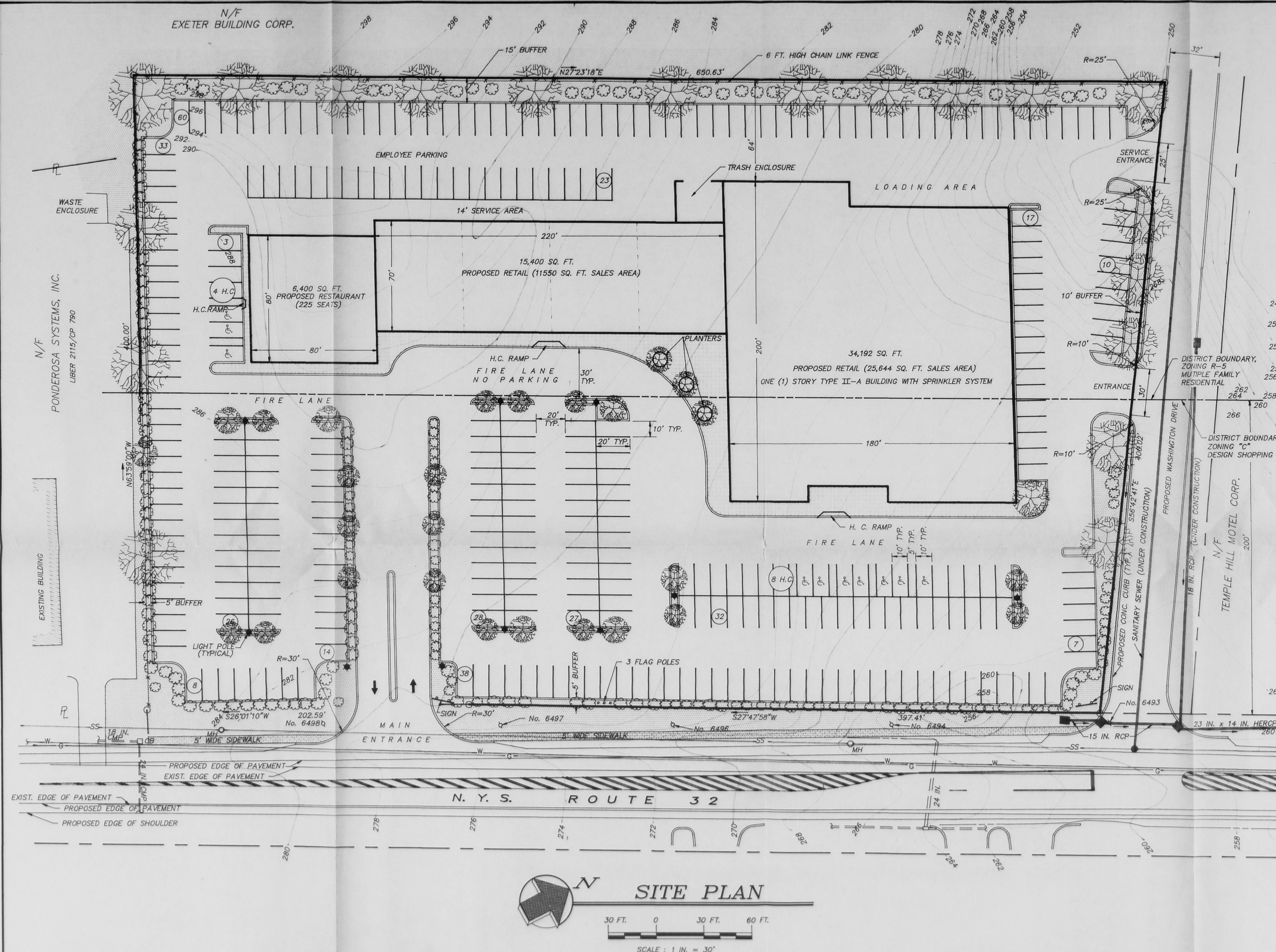


ROUTE 32 ASSOCIATES



Project Site

View from Rt 32,
Looking South at Site.



SITE INFORMATION

LOCATION : TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

TAX MAP DESIGNATION : SEC. 35 BLK. 1 LOT 102

LOT AREA : 5.70± ACRES (248,292 SQ. FT.)

ZONED : DESIGN SHOPPING ("C")

PERMITTED USES : RETAIL STORES & BANKS
(SEE "C" USE REGULATIONS COL. "A" #1)
REQUIRES SITE PLAN APPROVAL
BY PLANNING BOARD

BULK REGULATIONS

DISTRICT "C", GROUP DD.1 (DIST. "NC", GROUP "AA", USES COL. "A" #3)

ITEM	REQUIRED	PROVIDED
SITE AREA	40,000 SQ. FT. MIN.	248,292 SQ. FT.
LOT WIDTH	200 FT. MIN.	400 FT.
FRONT YARD	60 FT. MIN.	65 FT. MIN.
REAR YARD	30 FT. MIN.	64 FT.
SIDE YARD	30 FT. MIN.	70 FT.
BOTH SIDE YARDS	70 FT. MIN.	135 FT.
FLOOR AREA RATIO	0.5 MAX.	0.22
BUILDING HEIGHT	4 IN./FT. TO NEAREST PROPERTY LINE	

PARKING REQUIREMENTS

TABLE OF USE REGULATIONS:
DIST. "C", COL. "E", #1 (DIST. "NC", COL. "E", #2, 6)

	REQUIRED	PROVIDED
RETAIL:	248 SPACES (1 SPACE PER 150 S.F. FLOOR AREA IN SALES USE)	263
RESTAURANT:	75 SPACES (1 SPACE PER 3 SEATS)	75

- ### NOTES :
- BOUNDARY & TOPOGRAPHICAL SURVEY INFORMATION BASED UPON MAPS PREPARED BY PETER R. HUSTIS, L.L.S. OF BEACON, N.Y., LICENSE NO. 49205, FOR NEW WINDSOR ASSOCIATES, MAP ENTITLED "SUBDIVISION MAP FOR NEW WINDSOR ASSOCIATES" PARCEL 1, DATED JUNE 11, 1987.
 - TURNING LANE AND STRIPING PLAN FOR ROUTE 32 SHOWN AS APPROVED BY N.Y.S.D.O.T. FOR WASHINGTON GREEN COMPLEX.

REV	DR	CK	DATE	DESCRIPTION
3	NM	KD	27 DEC. 88	REV. PER 14 DEC. 88 PLANNING BOARD MEETING
2	NM	KD	2 DEC. 88	REV. PER 9 NOV. 88 PLANNING BOARD MEETING
1	NM	KD	11 AUG 88	BUILDING & PARKING LOT REVISIONS

KARTIGANER ASSOCIATES, P.C.
CONSULTING ENGINEERS
555 BLOOMING GROVE TURNPIKE, NEWBURGH, N.Y. 12550

SITE PLAN

SHEET : 1
OF : 1
JOB NO : 88015.00

REPRODUCTION OF THIS DOCUMENT IN WHOLE OR IN PART IS PROHIBITED EXCEPT WITH THE PERMISSION OF THE OFFICE OF ORIGIN.

UNAUTHORIZED ALTERATION OR ADDITION TO THIS PLAN IS A VIOLATION OF SECTION 7209 (2) OF THE NEW YORK STATE EDUCATION LAW.

SITE PLAN PREPARED FOR :

ROUTE 32 ASSOCIATES
147-39 175th STREET,
JAMAICA, N.Y. 11434

DRAWN : N.M. SCALE : 1 IN. = 30'
CHECKED : K.A.D. DATE : 28 JUNE 1988

